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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/537,003

05/26/2005

Yukio Higashiisogawa

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7590

07/09/2007

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EXAMINER

PUNNOOSE, ROY M

ART UNIT

PAPER NUMBER

2886

MAIL DATE

DELIVERY MODE

07/09/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/537,003	Applicant(s) HIGASHISOGAWA ET AL.	
	Examiner Roy M. Punnoose	Art Unit 2886	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>05/2005; 06/2007</u> . | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 6, 9-13, 17-19, 25, 28-31, 33 and 35-41 are rejected under 35 U.S.C. 102 (b) as being anticipated by Takemura et al (US\_6,246,859).

3. Claim 1 is rejected because Takamura teaches of a light sensor (see Figure 8) comprising one or more light-emitting units 41 for emitting light onto a target object 4 and one or more light-receiving units 42 for receiving reflection light from the target object 4 wherein the one or more light-emitting units 41 and the one or more light-receiving units 42 are disposed such that a light emission axis of the one or more light-emitting units and a light reception axis of the one or more light-receiving units are parallel or substantially parallel to each other (see col.10, lines 26-46 and Figure 8).

4. Claim 2 is rejected for the same reasons of rejection of claim 1 above and because Takamura teaches that the light sensor further comprises a light guide 5 for regulating a path of at least one of light traveling toward the target object 4 from the one or more light-emitting units 41 and light traveling toward the one or more light-receiving units 42 from the target object (see col.10, lines 47-62 and Figure 8).

5. Claim 3 is rejected for the same reasons of rejection of claims 1 and 2 above and because Takamura teaches of one or more second output areas for outputting the light reflected by the target object 4 and then introduced into the light guide 5 toward the one or more light-receiving

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units 42 and wherein at least one area of the one or more first entrance areas, the one or more first output areas, the one or more second entrance areas, and the one or more second output areas refracts light passing through said at least one area (see Figure 8).

6. Claim 6 is rejected for the same reasons of rejection of claims 1 and 2 above and because Takamura teaches of a light shield that causes light reflected at a target angle by a target object, among the light reflected by the test tool, to enter the one or more light-receiving units selectively (see col.10, line 47 – col.14, line 65).

7. Claims 9-13, 17-19, 25, 28-31, 33 and 35-41 are rejected for the same reasons of rejection of claims 1-3 and 6 above and because claims 9-13, 17-19, 25, 28-31, 33 and 35-41 consists of various combinations of limitations claimed in claims 1-3 and 6 and are taught by Takamura (see col.10, line 47 – col.14, line 65).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 4-5, 7-8, 14-16, 20-24, 26-27 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takamura et al (US\_6,246,859) in view of what is well-known in the art.

10. Claims 4-5, 7-8, 14-16, 20-24, 26-27 and 32 are rejected for the same reasons of rejection of claims 1-3, 6, 9-13, 17-19, 25, 28-31, 33 and because their claimed limitations are well-known in the art and therefore it would have been obvious for one of ordinary skill in the art at

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the time the invention was made to incorporate said limitations of those claims into Takemura's apparatus due to the fact that it would reduce the size of the instrument.

***Contact/Status Information***

11. The prior art cited in the accompanying PTO-892 is made of record and not relied upon, **is considered pertinent** to applicant's disclosure.

12. Several facts have been relied upon from the personal knowledge of the examiner about which the examiner took Official Notice in this office action. Applicant must seasonably challenge well known statements and statements based on personal knowledge when they are made. In re Selmi, 156 F.2d 96, 70 USPQ 197 (CCPA 1946); In re Fischer, 125 F.2d 725, 52 USPQ 473 (CCPA 1942). See also In re Boon, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice). If applicant does not seasonably traverse the well-known statement during examination, then the object of the well known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). A seasonable challenge constitutes a demand for evidence made as soon as practicable during prosecution. Thus, applicant is charged with rebutting the well-known statement in the **next reply** after the Office action in which the well known statement was made.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Roy M. Punnoose** whose telephone number is **571-272-2427**.

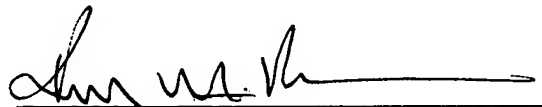
The examiner can normally be reached on 9:00 AM - 5:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Tarifur Chowdhury** can be reached on **571-272-2287**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 25, 2007



**Roy M. Punnoose**  
Patent Examiner  
Art Unit 2886